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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/816,306	Applicant(s) ROGERS ET AL.	
	Examiner Michael W. Hoye	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-62 is/are pending in the application.
- 4a) Of the above claim(s) 59-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 59-62 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: new claims 36-58 are somewhat related to previously filed claims 1-35, which are now canceled, and claims 36-58 are directed toward a method and system for multi-casting video content and non-video content over a distribution network wherein the non-video data comprises a viewer participation activity as classified in class 725, subclass 135, however, new claims 59-62 are directed toward the use of a method and system for multi-casting video content and non-video content using buffering markers and display markers as classified in class 725, subclass 142, as well as subclass 134. The previously filed claims did not require the use of buffering markers and display markers as described above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 59-62 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

2. Applicants' arguments filed on April 13, 2006 have been fully considered but they are not persuasive.

Regarding previously filed claims 1-9 and 19-35, the Applicants' arguments have been fully considered but they are moot since the claims have been canceled.

Regarding new independent claim 36, the Applicants argue on page 12 that, "The cited references do not teach or describe an on-screen video display having a region associated with a video content program screen and a region associated with a viewer participation activity related to the video content program stream."

In response, the Examiner respectfully disagrees with the Applicants because the Cameron et al (WO 99/63759) reference clearly teaches the claimed step of transmitting non-video data comprising a viewer participation activity, wherein the user computer is adapted for converting the video content program stream and the non-video data into an on-screen video display arranged into regions as met by page 8, lines 5-23, wherein the Cameron reference discloses the transmission of interactive TV, Web Browsing, Web-based Email, IPG, VOD and pay-per-view services through the DTVM interface. Also, or more specifically, the claim is met by the additional information discussed on page 9, line 31 through page 10, line 4 [Fig. 8], including the channel hotlinks, highlighting a program or channel on the IPG, and the dynamic web page as discussed on page 15, lines 19-26. The claimed step of displaying the viewer participation activity in a viewer participation region contemporaneously with displaying the video content program stream in a video content region is met by the additional information discussed on page 9, line 31 through page 10, line 4 (see Fig. 8), and the dynamic web page as described on page 15, lines 19-26. Therefore, Figure 8 discloses the two regions claims as illustrated by an IPG including a program detail banner containing information representing a highlighted channel. In Figure 8, a highlighted channel or "video content program stream" is

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chosen and clicked on by the user and additional information is displayed in the program detail banner. The highlighted channel is “Real-Time Broadcast Video” and the program detail banner is a region associated with a viewer participation activity related to the video content program stream which is displayed in response to the user highlighting a channel.

Furthermore, to serve as another example of video content and non-video content comprising a viewer participation activity being displayed in regions and contemporaneously with each other, the Cameron reference discloses the viewing of a related web page and video concurrently. Page 15, lines 19-26 disclose channel hotlinks. The channel hotlinks can be actuated in order to activate a transfer to a dynamic web page. The web page could display information on the program or on the subject matter **currently** being shown. The system could also provide links to related topics of interest. The information being displayed on the web page can be displayed with the subject matter currently being shown, or contemporaneously. Therefore, the Cameron reference provides an additional example that meets the claim limitations.

Regarding new claims 59-62, the Applicants’ arguments are moot since the claims have been withdrawn from consideration as described above in the election by original presentation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 36, 38-40, 42-45, 48, 50 and 52-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Cameron et al (WO 99/63759).

Regarding claim 36, note the Cameron et al reference which discloses the claimed method for multi-casting video content to a user computer. The claimed step of distributing a video content program stream from a content center to a regional data center via an open network is met by page 6, lines 2-10, wherein the Cameron reference discloses a satellite located at the head-end to receive content video signals [Fig. 2] from a content provider over satellite 12 (satellite transmission being that of an open network). The claimed step of distributing the video content program stream from the regional data center to a user computer via a distribution network according to a multi-cast protocol is met by page 6, lines 5-20, wherein the Cameron reference discloses an IP multicast broadband network for distributing the encoded video signals. The claimed step of transmitting non-video data comprising a viewer participation activity, wherein the user computer is adapted for converting the video content program stream and the non-video data into an on-screen video display arranged into regions is met by page 8, lines 5-23, wherein the Cameron reference discloses the transmission of interactive TV, Web Browsing, Web-based Email, IPG, VOD and pay-per-view services through the DTVM interface. Also, or more specifically, the claim is met by the additional information discussed on page 9, line 31 through page 10, line 4 [Fig. 8], including the channel hotlinks, highlighting a program or channel on the IPG, and the dynamic web page as discussed on page 15, lines 19-26. The claimed step of displaying the viewer participation activity in a viewer participation region contemporaneously with displaying the video content program stream in a video content region

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is met by the additional information discussed on page 9, line 31 through page 10, line 4 (see Fig. 8), and the dynamic web page as described on page 15, lines 19-26.

Regarding claim 38, the claimed open network is selected from the group consisting of a satellite network, a terrestrial wireless network, a cable network, and a fiber optic network is met by the discussion, on page 6, line 32 – page 7, line 2 of the use of satellite and off-air broadcasts to transmit the television broadcast signals to the head-end.

Regarding claim 39, the claimed distribution network is selected from the group consisting of a satellite network, a terrestrial wireless network, a cable network, and a fiber optic network is met by the discussion, on page 6, lines 8-20, wherein the Cameron reference discloses the use of ADSL, HFC, FTTC, or wireless service as a distribution multicast network.

Regarding claim 40, the claimed method of multi-casting video content of claim 36, wherein the distribution network is interactive and wherein the viewer participation region comprises an interactive portion responsive to a means of user selection is met by the above discussions of the “highlighted channel” selection and the “channel hotlink” selection.

Regarding claim 42, the claimed wherein the video content program stream comprises a pre-recorded program, wherein the distribution network is interactive is met by the “virtual VCR”, which has the ability to record and playback various programs in the network (see page 15, lines 28-30). The claimed wherein the method further comprises transmitting non-video data comprising a control command associated with the pre-recorded program is met by the network VCR functions, which provide a subscriber with all the functions of a VCR (page 16, lines 4-21). The claimed displaying the control command in a control command region, wherein the command control region comprises an interactive portion responsive to a means of user selection

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is met by the user selecting a command by a “click” action or by highlighting a selection in the electronic program guide or IPG (see page 15, line 9 – page 17, line 21). The claimed generating, at the user computer, user data corresponding to selection of the control command; receiving the user data at the regional data center via the distribution network; and executing the control command is met by the Cameron reference as described in the section above (see page 15, line 9 – page 17, line 21).

Regarding claim 43, the claimed wherein the control command is selected from the group consisting of video stop, video start, video rewind, video pause, video freeze frame, video slow motion, video display size, video image save, program menu, channel selection, volume, and audio mute is met by the Network VCR, which can “provide a subscriber with all of the features of a VCR” (page 16, lines 17-21).

Regarding claim 44, the claimed transmitting other non-video data comprising a link to information relating to the video content program stream; [and] displaying the link in a link region contemporaneously with displaying the video content stream in the video content region, wherein the link is dynamically selected based on the video content program stream is met by the “URL[s]” and “hotlinks” as described on page 15, lines 9-26.

Regarding claim 45, the claimed wherein the distribution network is interactive and wherein the link region is responsive to a means of user selection is met by the “URL[s]” and “hotlinks” as described above and on page 15, lines 9-26.

Regarding claims 48, 50 and 52-56, the claims are rejected based on similar grounds as the rejection of claims 36, 39, 40 and 42-45 respectively.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 37, 41, 46-47, 49, 51 and 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al (WO 99/63759).

Regarding claim 37, the claimed method for multi-casting video content is met by Cameron et al as described above in claim 36. Cameron et al, does not, however, specifically teach that the multi-cast protocol further comprises the Internet Group Management Protocol (IGMP) and class D addressing with private multi-cast addresses. However, the examiner takes Official Notice as to the fact that the IGMP protocol with class D addressing is well known in the art. The IGMP protocol is the standard protocol for multicast sessions and allows membership in particular multicast groups on a single network. Private class D addressing simply allows for IP addresses in the range of 244.0.0.0 – 239.255.255.255, which is also commonly known in the art. The examiner therefore submits that it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the IGMP protocol with class D addressing in order to comply with regularly accepted standards for establishing and maintaining a multicast distribution network.

Regarding claim 41, the claimed method for multi-casting video content is met by Cameron et al as described above in claim 40. The claimed wherein the viewer participation activities are selected from the group consisting of a chat activity, a game activity, an instant

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messaging activity, an application activity, a participation poll activity, and a parental control activity is met in part by the Cameron et al reference, where the game activity is met by page 2, line 28 and page 15, lines 2-7; the application activity is met by the discussion of the “highlighted channel” or the “channel hotlink” that provide further information regarding the selected and currently viewed program as previously described above; and the parental control activity is met by page 19, lines 1-3. The claimed chat activity, instant messaging activity, and participation poll activity are not explicitly disclosed by the Cameron et al reference. However, the examiner takes Official Notice that it is well known in the art of interactive video distribution systems to provide the activities, applications, or features listed above for the advantage of providing all of the activities or applications in a single computer or set-top box system, instead of having the applications on separate computer and/or television/video systems. One of ordinary skill in the art would have been led to make such a modification for the advantage of having a single integral system as described above.

Regarding claim 46, the claimed method for multi-casting video content is met by Cameron et al as described above in claim 44. The claimed wherein the link is selected from the group consisting of a game link, a puzzle link, a surprise link, and informational link, and an offer link is met in-part by the game link(s) as described on page 15, lines 2-7, the informational link(s) or “hotlink(s)” as described on page 15, lines 19-26, and the pay-per-view (PPV) events or “offer link[s]” as described on page 17, lines 23-31). Cameron et al does not explicitly disclose a puzzle link or a surprise link. However, the examiner takes Official Notice that it is well known in the art of interactive video distribution systems to provide links to puzzles and or a surprise or random link. Interactive puzzles are well known to those of ordinary skill in the art

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and a surprise link or random link is merely a matter of design choice, where the system designer or developer could choose to have a random or surprise link selection as a part of the overall set of link selections provided to the user or subscriber for the advantage of providing the user with a random or surprise selection. One of ordinary skill in the art would have been led to make the modifications as described above for the advantage of providing a subscriber with additional game selections including puzzles, as well as providing the subscriber with a surprise or random link functionality.

Regarding claim 47, the claimed wherein the offer link comprises an offer to sell goods and services related to video content program stream is met by the viewer viewing a program's video trailer from the electronic program guide and the viewer selecting a PPV event as a result of viewing the program trailer (see page 17, lines 19-31).

Regarding claims 49, 51 and 57-58, the claims are rejected based on similar grounds as the rejection of claims 37, 41 and 46-47 respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Addington (USPN 6,928,656) – Discloses a method for delivery of IP data over MPEG-2 transport streams.

Monteiro et al (USPN 5,778,187) – Discloses a multicasting method and apparatus for delivery of real-time information over a communications network.

White et al (USPN 6,628,302) – Discloses interactive video programming methods.

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Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is **571-272-7346**.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

Any response to this action should be mailed to:

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoye
June 24, 2006


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